

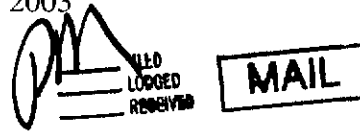
UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
WESTERN DISTRICT OF PENNSYLVANIA
P. O. BOX 1805
PITTSBURGH, PA 15230
WWW.PAWD.USCOURTS.GOV

ROBERT V BARTH, JR.
CLERK OF COURT
412-208-7500

IN REPLYING, GIVE NUMBER
OF CASE AND NAMES OF PARTIES

Date March 3, 2003

Clerk, U S District Court
Western District of Washington
215 William Kenzo Nakamura U S Courthouse
1010 Fifth Avenue
Seattle, WA 98104-1130



MAR 10 2003

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

03-CV-445

IN RE TIMOTHY WRIGHT v BAYER CORP
WESTERN DISTRICT OF PA NO 2 02-cv-1840
WESTERN District of WASHINGTON No
MDL # 1407 TITLED Phenylpropanolamine (PPA) Products Liability Litigation

Dear Clerk

Enclosed herewith please find the original record, together with a certified copy of docket entries in the above entitled case, which has been transferred to your district pursuant to a **Certified Copy of Order from Judicial Panel on Multidistrict Litigation**

Kindly acknowledge receipt for this record on the copy of this letter provided

DONE-*Pat*

Very truly yours,

ROBERT V BARTH, JR
CLERK OF COURT

By

Timothy Tarby
Timothy Tarby
Deputy Clerk

cc Judicial Panel on
Multidistrict Litigation
One Columbus Circle, N E
TMSJB, Room G-255
North Lobby
Washington, DC 20002-8004

Counsel of record



CV 03-445 #7

7

TERMED JRYDMD

U.S. District Court
U.S. District Court -- Western Washington (Seattle)

CIVIL DOCKET FOR CASE # 03-CV-445

Wright v. Bayer Corporation	Filed 03/10/03
Assigned to: Judge Barbara J. Rothstein	Jury demand Both
Demand \$0,000	Nature of Suit: 365
Lead Docket: None	Jurisdiction Diversity
Dkt # in W Dist of PA : 18 2:02-cv-1840	

Cause: 28:1332 Diversity-Product Liability

TIMOTHY WRIGHT
plaintiff

H Blair Hahn
[COR LD NTC]
RICHARDSON PATRICK WESTBROOK &
BRICKMAN LLC
PO BOX 1007
MT PLEASANT, SC 29465
843-727-6500

Alan T Silko
[COR LD NTC]
BROWN & LEVICOFF
707 GRANT STREET
600 GULF TOWER
PITTSBURGH, PA 15219
(412) 434-5200

Thomas P Gressette, Jr
[COR LD NTC]
RICHARDSON PATRICK WESTBROOK &
BRICKMAN
174 EAST BAY STREET
CHARLESTON, SC 29401

v.

BAYER CORPORATION
defendant

Mark A Willard
[COR LD NTC]
C Arthur Wilson
[COR LD NTC]
ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219
(415) 566-6000

Proceedings include all events
2 03cv445 Wright v. Bayer Corporation

TERMED

JRYDMD

3/10/03 7 TRANSMITTAL OF DOCUMENTS from the Western District of
Pennsylvania (Pittsburgh) per MDL Order (CTO-25) effective
2/10/03 re: MDL 1407 (PPA) W Dist of PA civil case no
2:02-cv-1840 (pm) [Entry date 04/10/03]

3/10/03 -- ENT- The Clerk will maintain a master docket and case file
under the style PPA cases all orders, pleadings, motions,
and other documents will, when filed and docketed in the
Master Case file, be deemed filed and docketed in each
individual case to the extent possible. (tg)
[Entry date 05/01/03]

3/11/03 8 ANSWER to by defendant Bayer Corporation, jury demand (vb)
[Entry date 04/10/03]

CLOSED

U.S. District Court
Western District of Pennsylvania (Pittsburgh)

CIVIL DOCKET FOR CASE # 02-CV-1840

WRIGHT v BAYER CORPORATION

Filed: 10/29/02

Assigned to: Chief Judge Donetta W. Ambrose

Jury demand: Plaintiff

Demand: \$75,000

Nature of Suit. 365

Lead Docket None

Jurisdiction: Diversity

Dkt # in MDL : 1s 1407

Cause 28:1332 Diversity-Product Liability

TIMOTHY WRIGHT
plaintiff

Alan T. Silko
[COR LD NTC]
Brown & Levicoff
707 Grant Street
600 Gulf Tower
Pittsburgh, PA 15219
(412) 434-5200

H. Blair Hahn, Esq.
[COR LD NTC]
Thomas P. Gressette, Jr.
[COR LD NTC]
Richardson, Patrick, Westbrook
& Brickman
174 East Bay Street
Charleston, SC 29401

v

BAYER CORPORATION
defendant

Mark A. Willard
566-6171
[COR LD NTC]
C. Arthur Wilson
566-6035
[COR LD NTC]
Eckert, Seamans, Cherin &
Mellott
600 Grant Street
44th Floor
Pittsburgh, PA 15219
(412) 566-6000

Proceedings include all events.

2:02cv1840 WRIGHT v. BAYER CORPORATION

CLOSED

10/29/02 1 COMPLAINT with jury demand , Filing Fee \$ 150.00 Receipt # 03000527 (tt) [Entry date 10/29/02]

1/31/03 2 WAIVER OF SERVICE Returned Executed as to BAYER CORPORATION on 11/25/02 Answer due on 1/24/03 for BAYER CORPORATION (tt) [Entry date 02/03/03]

1/31/03 3 NOTICE of Attorney Appearance for BAYER CORPORATION by C Arthur Wilson (tt) [Entry date 02/03/03]

2/7/03 4 Stipulation by TIMOTHY WRIGHT, BAYER CORPORATION Extending Time for deft to answer until 3/11/03 (tt) [Entry date 02/10/03]

2/7/03 -- Deadline updated, reset Answer deadline to 3/11/03 for BAYER CORPORATION (tt) [Entry date 02/10/03]

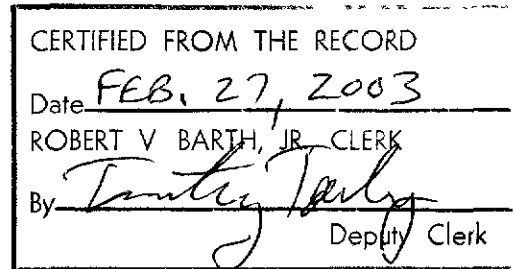
2/14/03 5 CONDITIONAL TRANSFER ORDER received from the Judicial Panel on Multidistrict Litigation. (tt) [Entry date 02/19/03]

2/27/03 6 CERTIFIED COPY of conditional transfer order received from Western District of Washington (tt) [Entry date 02/27/03]

2/27/03 -- Case Transferred to the U.S. District Court for the Western District of Washington (tt) [Entry date 02/27/03]

2/27/03 -- Case closed (tt) [Entry date 02/27/03]

2/27/03 -- ORIGINAL RECORD and certified copy of docket entries mailed to the U S. District Court for the Western District of Washington (tt) [Entry date 02/27/03]



UNITED STATES OF AMERICA

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

CHAIRMAN:
Judge Wm. Terrell Hodges
United States District Court
Middle District of Florida

MEMBERS:
Judge John F. Keenan
United States District Court
Southern District of New York

Judge Bruce M. Selya
United States Court of Appeals
First Circuit

Judge Julia Smith Gibbons
United States Court of Appeals
Sixth Circuit

Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

Judge Robert L. Miller, Jr.
United States District Court
Northern District of Indiana

DIRECT REPLY TO:

Michael J. Beck
Clerk of the Panel
One Columbus Circle, NE
Thurgood Marshall Federal
Judiciary Building
Room G-255, North Lobby
Washington, D.C. 20002

Telephone: (202) 502-2800
Fax: (202) 502-2888

<http://www.jpml.uscourts.gov>

February 10, 2003

Bruce Rifkin, Clerk
215 William Kenzo Nakamura U.S. Courthouse
1010 Fifth Avenue
Seattle, WA 98104-1130

FILED
LONGER
RECEIVED

MAIL
FEB 14 2003

Re: MDL-1407 -- In re Phenylpropanolamine (PPA) Products Liability Litigation

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

(See Attached Schedule CTO-25)

Dear Mr. Rifkin:

CA 02-1840

I am enclosing one certified copy and additional copies of a conditional transfer order filed by the Panel in the actions listed on the attached schedule on January 23, 2003. The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred." As stipulated in Rule 7.4(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435 (2001), transmittal of the order has been stayed 15 days to give any party an opportunity to oppose the transfer if they wish to do so. The 15-day period has now elapsed, no opposition was received, and the order is directed to you for filing.

A list of involved counsel is attached.

I hereby certify that the
annexed instrument is a true
and correct copy of the original
on file in my office

ATTEST BRUCE RIFKIN
Clerk, U.S. District Court
Western District of Washington

By Valerie Barker
Deputy Clerk

Very truly,

Michael J. Beck
Clerk of the Panel

By Cayman Lee
Deputy Clerk

Attachments

cc: Transferee Judge: Judge Barbara Jacobs Rothstein
Transferor Judges: (See Attached List of Judges)
Transferor Clerks: (See Attached List of Clerks)

A CERTIFIED TRUE COPY

DOCKET NO. 1407

JAN 23 2003

FEB 10 2003

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

**FILED
CLERK'S OFFICE**

**IN RE: PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY LITIGATION
FOR THE JUDICIAL PANEL OF
MULTIDISTRICT LITIGATION**

(SEE ATTACHED SCHEDULE)

CONDITIONAL TRANSFER ORDER (CTO-25)

On August 28, 2001, the Panel transferred eight civil actions to the United States District Court for the Western District of Washington for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. Since that time, 735 additional actions have been transferred to the Western District of Washington. With the consent of that court, all such actions have been assigned to the Honorable Barbara Jacobs Rothstein.

It appears that the actions on this conditional transfer order involve questions of fact which are common to the actions previously transferred to the Western District of Washington and assigned to Judge Rothstein.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the Western District of Washington for the reasons stated in the order of August 28, 2001, 173 F.Supp.2d 1377 (J.P.M.L. 2001), and, with the consent of that court, assigned to the Honorable Barbara Jacobs Rothstein.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Western District of Washington. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL

Michael J. Beck

Michael J. Beck
Clerk of the Panel

I hereby certify that the
annexed instrument is a true
and correct copy of the original
on file in my office
ATTEST BRUCE REPKIN
Clerk, U.S. District Court
Western District of Washington

By Valerie Barker
Deputy Clerk

**Inasmuch as no objection is
pending at this time, the
stay is lifted.**

FEB 10 2003

**CLERK'S OFFICE
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

SCHEDULE CTO-25 - TAG ALONG CASES
DOCKET NO. 1407
IN RE PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY LITIGATION

DISTRICT DIV CIVIL ACTION#**ALABAMA MIDDLE**

ALM	2	02-1337	William Eugene Moates v Bayer Corp , et al
ALM	2	02-1352	J T Porter v Bayer Corp , et al

ALABAMA NORTHERN

ALN	1	02-2965	Kelvin D Wynn v Wyeth
ALN	1	02-2967	Runtura Lana Powell v Bayer Corp , et al
ALN	1	02-2969	Judy Ann Porter v Bayer Corp , et al
ALN	1	02-2970	George Bruce Sparks v Bayer Corp , et al
ALN	1	02-2972	David L Peek v Wyeth, et al
ALN	1	02-2990	W J Turner v Novartis Consumer Health, Inc , et al
ALN	2	02-2919	Jimmie Perry v Whitehall-Robins Healthcare, et al
ALN	2	02-2939	Edgar Wright v Thompson Medical Co , Inc , et al
ALN	2	02-2947	Shawn G Mertens, et al v Wyeth, Inc
ALN	2	02-2953	Jeremy Fleming, et al v Bayer Corp , et al
ALN	2	02-2968	Ricky Allen Carter v Bayer Corp , et al
ALN	2	02-2971	Billy McCaskill, Sr v Novartis Consumer Health, Inc , et al
ALN	2	02-2973	Cornell Windsor, Jr v Bayer Corp., et al
ALN	2	02-2974	Becky D Gailor v Novartis Consumer Health, Inc , et al
ALN	2	02-2975	Pleaze Bennett, Jr , et al v Bayer Corp , et al
ALN	2	02-2976	Melissa Freeman v Pfizer, Inc , et al
ALN	2	02-2977	Larry Gordon v Novartis Consumer Health, Inc , et al
ALN	2	02-2992	Benjamin Birkenfeld, Jr v Bayer Corp , et al
ALN	2	02-2993	Willie Mae Moton v Bayer Corp , et al
ALN	2	02-2994	Tony Ray Lampkin v Bayer Corp , et al
ALN	2	02-3007	Linda J Evans v Smithkline Beecham Consumer Healthcare, LP, et al
ALN	2	02-3014	Frank Sidney Adaway v Bayer Corp , et al
ALN	4	02-2991	Annie Faye McClendon v Smithkline Beecham Consumer Healthcare, LP, et al
ALN	6	02-2963	Billie Joyce Crutcher v Bayer Corp , et al
ALN	6	02-2964	Sarah Lou McDaniel v Novartis Consumer Health, Inc , et al
ALN	6	02-3018	Charles Wayne Aderholt v Novartis Consumer Health, Inc , et al
ALN	7	02-2944	Jacqueline Dolores James v Bayer Corp , et al
ALN	7	02-2962	Roselynn Medders Pittman v Pfizer Inc , et al

ALABAMA SOUTHERN

ALS	1	02-887	Elizabeth Dolores Westbrook v Bayer Corp , et al
ALS	1	02-891	Joseph Franklin Johnson v Bayer Corp , et al
ALS	1	02-896	Vernell Taylor v The Delaco Co , et al
ALS	1	02-897	Donald Wayne Morrison v Bayer Corp , et al
ALS	1	02-898	Sharon M Greer v Bayer Corp , et al
ALS	1	02-899	Shirley Ann Williams v Wyeth, et al
ALS	1	02-900	Brenda Lee Marshall v Wyeth
ALS	1	02-905	Gwendolyn Vines v Wyeth, et al
ALS	1	02-906	Charles Edward Beckham v Novartis Consumer Health, Inc , et al
ALS	1	02-908	Ingrid Bartlett Scott v Bayer Corp , et al
ALS	1	02-909	Terese Hanna McCown v Wyeth, et al
ALS	1	02-910	Cindy Katrice Longmire v Novartis Consumer Health, Inc , et al
ALS	1	02-911	Janet Elaine Evans v Novartis Consumer Health, Inc , et al
ALS	1	02-915	Frederick Allen Johnson v Bayer Corp , et al
ALS	1	02-916	James Lee Davis v Bayer Corp , et al
ALS	1	02-917	Bernard Grant Holmes v Bayer Corp , et al
ALS	1	02-918	Frank Edward Grover v Bayer Corp , et al
ALS	1	02-920	John Lee Williams v Bayer Corp , et al
ALS	1	02-921	Kathleen Lashawn Banks v The Delaco Co , et al
ALS	1	02-922	McKinley Causey, Jr , v Bayer Corp , et al

DISTRICT DIV CIVIL ACTION#

ALS	1	02-923	Dukett Dixie v GlaxoSmithKline Consumer Healthcare, L P , et al.
ALS	1	02-924	Albert Lewis Mosley v Bayer Corp , et al
ALS	1	02-925	Linda Gayle Stamey v Bayer Corp , et al
ALS	1	02-927	Shirley A Tolbert v Bayer Corp , et al
ALS	1	02-928	Gordon McCrae Lockett v. Bayer Corp , et al
ALS	1	02-929	Edna Glynne Johnson v Bayer Corp , et al
ALS	1	02-934	Penny S Howell v Bristol-Myers Squibb Co
ALS	1	02-935	Angela Michelle Lambeth v Chattem, Inc , et al
ALS	1	02-936	Kay M Banks v Bayer Corp , et al
ALS	1	02-938	Betty Jean Beckham v Bayer Corp , et al
ALS	1	02-939	John Davis Odom, Jr v Bayer Corp , et al
ALS	1	02-940	Thomas Jefferson Cunningham v Bayer Corp , et al
ALS	1	02-941	Susan Wallace v Novartis Consumer Health, Inc , et al
ALS	1	02-942	Rosie Marie Shoemack v Bayer Corp , et al
ALS	1	02-943	Maryellen Anderson Paulus v Novartis Consumer Health, Inc , et al
ALS	1	02-951	Michael Rowden v Wyeth, et al

ARKANSAS EASTERN

ARE	2	02-184	Deborah Borkowski, et al v Novartis Pharmaceuticals Corp , et al
ARE	3	02-400	David Sanders v GlaxoSmithKline, et al

GEORGIA MIDDLE

GAM	5	02-446	Joan D Lindsey v The Delaco Co , Inc , et al
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GEORGIA NORTHERN

GAN	1	02-3332	Mikki Payton v Bayer Corp , et al
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LOUISIANA WESTERN

LAW	5	02-2561	Betty Thomas Fuller, et al v Bayer Corp , et al
LAW	5	02-2563	Mary Ann Ford v Bayer Corp , et al

MISSISSIPPI SOUTHERN

MSS	4	02-521	Edna Russ, et al v Wyeth, et al
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NEW JERSEY

NJ	2	02-5140	Medora Maanum, et al v Wyeth
NJ	2	02-5141	Eddie Maynard, et al v Novartis Consumer Health, Inc
NJ	2	02-5142	Royola McDaniel v Wyeth
NJ	2	02-5145	Christen Weathers v Wyeth
NJ	2	02-5146	Dennis Zavadil v Wyeth
NJ	2	02-5247	Deborah Booher, et al v Wyeth
NJ	2	02-5248	Frances Moore, et al v Wyeth
NJ	2	02-5250	Brian Hall, etc v Wyeth
NJ	2	02-5251	Thad Pudon v Wyeth
NJ	2	02-5253	Jo Ann Robinson, et al v Wyeth

NEW MEXICO

NM	1	02-1548	Raymond Jones v Wyeth, Inc , et al
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NEVADA

NV	3	02-586	Melissa Ewing, et al v Wyeth, et al
NV	3	02-587	Rebecca Pitts v Wyeth

OHIO SOUTHERN

OHS	1	02-814	Earl Rowland, et al v Proctor & Gamble
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PENNSYLVANIA EASTERN

PAE	2	02-8207	Johnnie M Barnes, Jr v SmithKline Beecham Corp
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DISTRICT DIV. CIVIL ACTION#

PENNSYLVANIA WESTERN

PAW	2	02-1838	Valerie Eddie v Bayer Corp
PAW	2	02-1839	Daniel H. Graves v Bayer Corp
PAW	2	02-1840	Timothy Wright v Bayer Corp
PAW	2	02-1841	Delores Greene v Bayer Corp
PAW	2	02-1842	Bernell McBride, III v Bayer Corp
PAW	2	02-1843	Queen Richardson v Bayer Corp
PAW	2	02-1844	Frank Anderson, et al v Bayer Corp
PAW	2	02-1845	Ophelia Curran, et al v Bayer Corp
PAW	2	02-1846	Beulah Schabbling v Bayer Corp
PAW	2	02-1847	Michael Stephens, et al v Bayer Corp
PAW	2	02-1848	Vera Davenport v Bayer Corp
PAW	2	02-1877	Jane Knight, etc v Bayer Corp
PAW	2	02-1880	Richard Shifflett, et al v Bayer Corp , et al
PAW	2	02-1881	Joseph Cappicello, et al v Bayer Corp
PAW	2	02-1882	George Clark, et al v Bayer Corp
PAW	2	02-1883	Brenda Peterson v Bayer Corp
PAW	2	02-1884	Millen Turner v Bayer Corp
PAW	2	02-1885	James Ritchie, et al v Bayer Corp
PAW	2	02-1888	Christie Beckmann v Bayer Corp , et al
PAW	2	02-1889	Catherine Hardy v Bayer Corp , et al
PAW	2	02-1890	Mattie Pringle v Bayer Corp
PAW	2	02-1891	Gloria Gaston v Bayer Corp
PAW	2	02-1892	Ruth Goodwin v Bayer Corp
PAW	2	02-1893	Marsha Hunter, et al v Bayer Corp
PAW	2	02-1894	Costa Johnson, et al. v Bayer Corp

SOUTH CAROLINA

SC	3	02-4127	Rachel Ann Meetze v American Home Products Corp , et al
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TENNESSEE MIDDLE

TNM	3	02-1176	William E Beard, et al v Perrigo Co , et al
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TEXAS EASTERN

TXE	1	02-811	Larry Trahan v Kroger Texas, LP, et al
TXE	2	02-309	Ervin Lee Talton v Crump Foods, Inc , et al
TXE	6	02-587	Carol Adams v Chattem, Inc , et al Opposed 1/31/03

TEXAS NORTHERN

TXN	3	02-2729	Stephen Dockins v Kroger Teas, LP, et al
TXN	3	02-2733	Scha Luz Rodriguez v Advocare International, LLC, et al Opposed 2/6/03
TXN	3	02-2737	Lynne Grant, et al v Advocare International LLC, et al Opposed 2/6/03

TEXAS SOUTHERN

TXS	4	02-4477	Yolanda Trevino v Kroger Texas, LP , et al
TXS	4	02-4618	Maria Harris v Kroger Texas, LP, et al
TXS	4	02-4769	Kathryn Anne Cervas-Meyer v Kroger Texas, LP , et al
TXS	4	02-4785	Harold Woodson v Kroger Texas, LP, et al
TXS	4	02-4891	Deann Fetzer, et al v Chattem, Inc , et al Opposed 1/31/03

TEXAS WESTERN

TXW	1	02-781	Troy Alexander, et al v Novartis Consumer Health, Inc , et al Opposed 1/31/03
TXW	1	02-800	Sharon Lemmon, et al v Chattem, Inc , et al Opposed 1/31/03
TXW	1	02-801	Anna Faye Miller v Chattem, Inc , et al Opposed 1/31/03

DISTRICT DIV CIVIL ACTION#

WEST VIRGINIA NORTHERN

WVN	2	02-102	Mary Jane Coffman, et al v Novartis AG, et al
WVN	5	02-142	Jesteen Raines, etc v SmithKline Beecham Corp , et al
WVN	5	02-166	Eugenia C Kennamer, et al v Wyeth, et al

INVOLVED JUDGES LIST (CTO-2)
DOCKET NO. 1407
IN RE PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY LITIGATION

Hon William M Acker, Jr
 Senior U S. District Judge
 481 Hugo L Black U S Courthouse
 1729 5th Avenue, North
 Birmingham, AL 35203-0065

Hon Donetta W Ambrose
 U S District Judge
 620 U S Post Office & Courthouse
 700 Grant Street
 Pittsburgh, PA 15219

Hon Joseph F Anderson, Jr
 Chief Judge, U S District Court
 Post Office Box 447
 Columbia, SC 29202-0447

Hon Robert R Armstrong, Jr
 U S Magistrate Judge
 274 Hugo L Black U S Courthouse
 1729 5th Avenue, North
 Birmingham, AL 35203

Hon Sharon Lovelace Blackburn
 U S District Judge
 730 Hugo L Black U S Courthouse
 1729 5th Avenue North
 Birmingham, AL 35203

Hon Alan N Bloch
 Senior U S District Judge
 U S Post Office & Courthouse
 Seventh & Grant Streets
 Room 837
 Pittsburgh, PA 15219

Hon Karon O Bowdre
 U S District Judge
 Hugo L Black U S Courthouse
 1729 5th Avenue N, Suite 140
 Birmingham, AL 35203

Hon Delores R Boyd
 U S Magistrate Judge
 United States District Court
 P O Box 430
 Montgomery, AL 36101-0430

~~Hon Jerry Buchmeyer~~
~~U S District Judge~~
~~15028A Earle Cabell Federal Bldg~~
~~& U S Courthouse~~
~~1100 Commerce St~~
~~Dallas, TX 75242-1003~~

Hon Charles R Butler, Jr
 Chief Judge, U S District Court
 John A Campbell U S Courthouse
 113 St. Joseph Street
 Mobile, AL 36602-3606

Hon David S Gercone
 U S District Judge
 1036 United States Post Office
 & Courthouse
 700 Grant Street
 Pittsburgh, PA 15219

Hon Robert J Cindrich
 U S. District Judge
 1014 U S Post Office & Courthouse
 700 Grant Street
 Pittsburgh, PA 15219

Hon U W Clemon
 Chief Judge, U S District Court
 519 Hugo L Black U S Courthouse
 1729 Fifth Avenue North
 Birmingham, AL 35203

Hon Howell Cobb
 Senior U S District Judge
 P O Box 632
 Beaumont, TX 77704

Hon Joy Flowers Conti
 U S District Judge
 219 U.S Post Office & Courthouse
 700 Grant Street
 Pittsburgh, PA 15219

Hon Harwell G Davis, III
 U S Magistrate Judge
 103 U S Post Office & Courthouse
 101 Holmes Avenue, N E
 Huntsville, AL 35801

Hon Garnett Thomas Eisele
 Senior U S District Judge
 502 U S Post Office and Courthouse
 600 West Capitol Avenue
 Little Rock, AR 72201-3325

Hon Lorenzo F Garcia
 U S Magistrate Judge
 680 U S Courthouse
 333 Lomas Blvd, N W
 Albuquerque, NM 87102

Hon Joseph A Greenaway, Jr
 U S District Judge
 Martin Luther King, Jr Federal
 Building & U S Courthouse
 50 Walnut Street
 Newark, NJ 07102

Hon James H Hancock
 Senior U S District Judge
 681 Hugo L Black U S Courthouse
 1729 5th Avenue North
 Birmingham, AL 35203

Hon Melinda Harmon
 U S District Judge
 9114 Bob Casey U S. Courthouse
 515 Rusk Avenue
 Houston, TX 77002

Hon William J Haynes, Jr
 U.S District Judge
 649 U S Courthouse
 801 Broadway
 Nashville, TN 37203

Hon David Hittner
 U S District Judge
 8509 Bob Casey U S Courthouse
 515 Rusk Avenue
 Houston, TX 77002

Hon Lynn N Hughes
 U S District Judge
 11122 Bob Casey U S Courthouse
 515 Rusk Avenue
 Houston, TX 77002

Hon Inge P Johnson
 U S District Judge
 361 Hugo L Black U S Courthouse
 1729 5th Avenue North
 Birmingham, AL 35203

Hon Irene M Keeley
 Chief Judge, U S District Court
 U S District Court
 P O Box 2808
 Clarksburg, WV 26302

Hon James E Kinkeade
 U S District Judge
 14A20 Earle Cabell Federal Building
 & U S Courthouse
 1100 Commerce Street
 Dallas, TX 75242-1003

Hon Gary L Lancaster
U.S. District Judge
911 U S Post Office & Courthouse
700 Grant Street
Pittsburgh, PA 15219

Hon Tom S Lee
Chief Judge, U S District Court
110 James O Eastland U S Courthouse
245 East Capital Street
Jackson, MS 39201

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DOCKET NO. 1407

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Judge John F. Keenan
United States District Court
Southern District of New York

Judge Bruce M. Selya
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First Circuit

Judge Julia Smith Gibbons
United States Court of Appeals
Sixth Circuit

Judge D. Lowell Jensen
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February 10, 2003

CA 02-1840

5

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Re: MDL-1407 -- In re Phenylpropanolamine (PPA) Products Liability Litigation

(See Attached Schedule CTO-25)

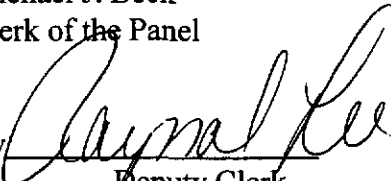
Dear Mr. Rifkin:

I am enclosing one certified copy and additional copies of a conditional transfer order filed by the Panel in the actions listed on the attached schedule on January 23, 2003. The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred." As stipulated in Rule 7.4(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435 (2001), transmittal of the order has been stayed 15 days to give any party an opportunity to oppose the transfer if they wish to do so. The 15-day period has now elapsed, no opposition was received, and the order is directed to you for filing.

A list of involved counsel is attached.

Very truly,

Michael J. Beck
Clerk of the Panel

By 
Deputy Clerk

Attachments

cc: Transferee Judge: Judge Barbara Jacobs Rothstein
Transferor Judges (See Attached List of Judges)
Transferor Clerks (See Attached List of Clerks)

DOCKET NO. 1407**JAN 23 2003****BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**FILED
CLERK'S OFFICE**IN RE PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY LITIGATION****(SEE ATTACHED SCHEDULE)****CONDITIONAL TRANSFER ORDER (CTO-25)**


On August 28, 2001, the Panel transferred eight civil actions to the United States District Court for the Western District of Washington for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. Since that time, 735 additional actions have been transferred to the Western District of Washington. With the consent of that court, all such actions have been assigned to the Honorable Barbara Jacobs Rothstein.

It appears that the actions on this conditional transfer order involve questions of fact which are common to the actions previously transferred to the Western District of Washington and assigned to Judge Rothstein.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the Western District of Washington for the reasons stated in the order of August 28, 2001, 173 F.Supp.2d 1377 (J.P.M.L. 2001), and, with the consent of that court, assigned to the Honorable Barbara Jacobs Rothstein.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Western District of Washington. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL



Michael J. Beck
Clerk of the Panel

Inasmuch as no objection is
pending at this time, the
stay is lifted.

FEB 10 2003

CLERK'S OFFICE
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TIMOTHY WRIGHT,)	
)	Case No.. 02 1840
Plaintiff,)	
)	
v)	
BAYER CORPORATION,)	
)	
Defendant)	
)	

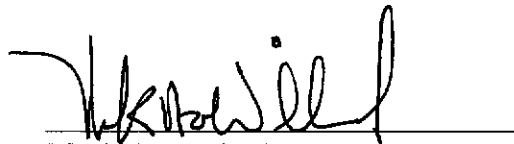
4

STIPULATION TO EXTEND TIME TO RESPOND TO COMPLAINT

Pursuant to Local Rule 7 2 of the United States District Court for the Western District of Pennsylvania, Plaintiff, Timothy Wright and Defendant, Bayer Corporation through their duly authorized counsel, have stipulated to the extension of the due date for filing a response to the Plaintiff's Complaint to March 11, 2003

Alan T. Silko, Esq
Pa I.D. # 46837
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707 Grant Street
Suite 600, Gulf Tower
Pittsburgh, PA 15219 1917

Thomas P Gressette, Jr., Esq.
H. Blair Hahn, Esq.
RICHARDSON PATRICK.
WESTBROOK & BRICKMAN, LLC.
174 East Bay Street
Charleston, SC 29401
Attorneys for Plaintiff



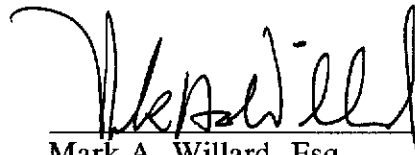
Mark A Willard, Esq
Pa. I D. No 18103
C. Arthur Wilson, Esq
Pa. I.D. No. 01108
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
Firm I.D. No 075
(412) 566-6171
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of February, 2003, a copy of the foregoing was served on all parties required to be served by mailing same, first-class postage prepaid to:

Alan T. Silko, Esq.
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Pittsburgh, PA 15219.1917

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WESTBROOK & BRICKMAN, LLC
174 East Bay Street
Charleston, SC 29401



Mark A Willard, Esq

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TIMOTHY WRIGHT,

Plaintiff,

v

No 02-1840

BAYER CORPORATION,

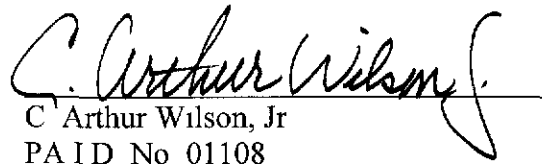
Defendant

(3)

ENTRY OF APPEARANCE

TO THE CLERK

Kindly enter my appearance as attorney for defendant Bayer Corporation in the
above-captioned matter



C Arthur Wilson, Jr
PAID No 01108
Eckert Seamans Cherin & Mellott, LLC
44th Floor, 600 Grant Street
Pittsburgh, PA 15219

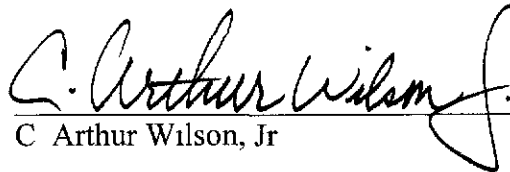
Attorneys for Bayer Corporation

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Entry of Appearance was served by first class mail, postage prepaid, this 3rd day of January, 2003, on the following

Alan T Silko, Esq
Brown & Levicoff, P C
707 Grant Street
Suite 600
Pittsburgh, PA 15219

Thomas P Gressette, Jr , Esq
Richardson Patrick Westbrook & Brickman, LLC
174 East Bay Street
Charleston, SC 29402


C Arthur Wilson, Jr

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TIMOTHY WRIGHT,

Plaintiff,

v

BAYER CORPORATION,

Defendant

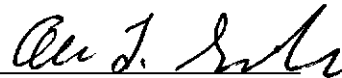
CASE NO 02-CV-1840

2
1

**PLAINTIFF'S NOTICE OF DEFENDANT BAYER CORPORATION'S EXECUTED
WAIVER OF SERVICE**

ATTACHED hereto as Exhibit A, for filing with this Court is Defendant's executed
Waiver of Service of Summons and Complaint in the above captioned action

Respectfully submitted,



Alan T. Silko, Esquire (PA ID # 46837)
BROWN & LEVICOFF, PC
707 Grant Street
Suite 600, Gulf Tower
Pittsburgh, PA 15219-1917
(412) 434-5200

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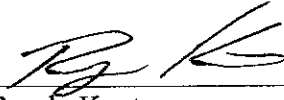
ATTORNEYS FOR THE PLAINTIFF

January 27, 2003

Certificate of Service

I hereby certify that a true and correct copy of the foregoing has been served upon all interested parties via first class U S. Mail to the below listed counsel and interested parties

This 29 day of January 2003



Randy Kent
Paralegal to H Blair Hahn, Esquire
RICHARDSON, PATRICK,
WESTBROOK & BRICKMAN, L L C
174 East Bay Street
Charleston, SC 29401
(843) 727-6500

SERVICE LIST:

Albert G Bixler, Esquire
ECKERT SEAMANS CHERIN &
MELLOTT, LLC
1515 Market Street
Ninth Floor
Philadelphia, PA 19102
ATTORNEY FOR DEFENDANT BAYER
CORPORATION

WAIVER OF SERVICE OF SUMMONS

TO Alan Silko, Esquire
BROWN & LEVICOFF, P C
600 Gulf Tower
Pittsburgh, PA 15219

I acknowledge receipt of your request that I waive service of a summons in the action of **Timothy Wright v. Bayer Corp.** which is case number **02-CV-1840** in the United States District Court of Pennsylvania. I have also enclosed a copy of the Complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the Complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____, or within 90 days after that date if the request was sent outside the United States.

12/18/02
Date

C. Arthur Wilson, Jr.
Signature

C. ARTHUR WILSON, JR.
Printed/typed name:

As COUNSEL FOR

Of AYER CORPORATION

(SEE BACK OF THIS FORM)

fee paid
recpt # 0527
NO SUM ISS
1534

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TIMOTHY WRIGHT,)	CASE NO	02 1840
)		
Plaintiff,)		
)		
v)	<u>COMPLAINT AND DEMAND</u>	
)	<u>FOR JURY TRIAL</u>	
BAYER CORPORATION,)		
)		
Defendant)	PERSONAL INJURY/PRODUCTS LIABILITY	

1

Plaintiff, by and through the undersigned attorneys, complains of Defendant and alleges as follows

PARTIES AND JURISDICTION

1. Plaintiff is a citizen of the United States and resident of Gaston County, North Carolina

2. Plaintiff, Timothy Wright, (herein after "Plaintiff"), purchased and ingested cold medication containing phenylpropanolamine ("PPA") and has suffered permanent injury as a result thereof. Specifically, Plaintiff ingested an Alka Seltzer Plus product, which contained PPA, without knowledge of the significant health risks of PPA.

3. Defendant, Bayer Corporation, is a foreign corporation with its principal place of business at 100 Bayer Road, Pittsburgh, PA 15205-9741, and is engaged in the business of designing, manufacturing, marketing and distributing over-the-counter medications including

Alka Seltzer Plus products which contained PPA, for sale and distribution into interstate commerce throughout the United States in general and this state and judicial district in particular

4 This Court has jurisdiction over this civil action pursuant to 28 U.S.C. §1332 because there is complete diversity of citizenship between Plaintiff and Defendant and because the amount in controversy exceeds \$75,000.00, exclusive of interest and costs

5 Venue is properly laid in this district pursuant to 28 U.S.C. § 1391 because the defendant engaged in the business of marketing, manufacturing and distributing Alka Seltzer Plus in the United States and because Bayer Corporation has its primary office in Pittsburgh, PA

6 At all times relevant, Defendant manufactured, created, designed, tested, labeled, sterilized, packaged, distributed, supplied, marketed, sold, advertised, and otherwise distributed through interstate commerce, a variety of over-the-counter and prescription cold products which contained PPA, including but not limited to the Alka Seltzer Plus which the Plaintiff ingested and which proximately caused the injuries and damages complained of herein

FACTUAL BACKGROUND

7 Prior to May 9, 1999, Plaintiff was an active and healthy thirty-seven year old man who enjoyed full time employment and numerous activities

8 On or about May 9, 1999, Plaintiff experienced a stroke after ingesting an Alka Seltzer Plus product. Said ingestion occurred within a period of days prior to the incident

9 At the onset of the stroke, Plaintiff was transported to the hospital and admitted with left side weakness, facial droop, slurred speech and other expected symptoms associated with a stroke.

10 While hospitalized, Plaintiff underwent numerous tests, a CAT scan , MRI and rehabilitative therapy Plaintiff experienced and continues to experience left side weakness and difficulty walking as a result of his ingestion of PPA

11 As a direct and proximate result of Plaintiff ingestion of PPA, Plaintiff has incurred one or more of the following

- (a) permanent injury,
- (b) physical deformities,
- (c) numerous ongoing physical problems, including but not limited to, left sided weakness, difficulty walking and severe emotional distress,
- (d) an increased risk of fatal illness, including but not limited to, additional strokes and further brain injury, and
- (e) significant mental anguish as a result thereof

12 PPA is a synthetic sympathomimetic drug which has been available in the United States for the greater part of the twentieth century When Congress authorized the Food and Drug Administration (FDA) to regulate the safety and effectiveness of medicines, PPA, which was already on the market, was grandfathered in and never had to satisfy the rigorous testing requirements for all new medicines. Defendant is responsible for making it available without prescription in cough and cold medicines and/or appetite suppressants PPA was contained in well over 100 different products, over half of which were available over-the-counter (OTC)

13. PPA is structurally and functionally similar to amphetamine and ephedrine (both of which are associated with cardiac and brain toxicity) When used as a decongestant, PPA clears nasal passages by constricting blood vessels, which become inflamed during infection and/or as a result of other irritants

14 There is a long history of published serious adverse events including hemorrhagic strokes attributed to PPA. PPA is known to cause and/or set into motion reactions within the circulatory and nervous systems, including the blood vessels in and around the brain, which lead to hemorrhagic strokes (subarachnoid hemorrhages and/or intracerebral bleeding) and occlusive strokes

15 Reports of adverse drug reactions (ADR's) to PPA are documented as early as 1965. In the 25 year period between 1965 and 1990, 142 ADR's were reported in 85 studies, with the vast majority of these (69%) occurring in North America

16 By 1991, there were at least 44 cases of stroke (35 hemorrhagic) reported in PPA users.

17 Despite the various reports of death and serious illnesses associated with the use of PPA, Defendant failed to remove the product from the market or to provide adequate warnings to consumers of the risks of using PPA, including but not limited to the relationship between stroke and the use of PPA, and continued to actively and aggressively market PPA to the public

18 As a direct and proximate result of the acts and omissions of the Defendant, Plaintiff has sustained permanent and devastating injuries. These injuries have caused, and will continue in the future to cause, extensive pain and suffering, emotional distress, and have substantially reduced the Plaintiff's ability to enjoy life, the Plaintiff has sustained economic loss, including loss of earnings and diminished loss of earning capacity in an amount to be determined, Plaintiff has had to expend substantial sums of money for medical, hospital and related care, and will be required to do so in the future, and Plaintiff is subjected to the need for

medical management for the remainder of Plaintiff's life, all to the Plaintiff's general damage in a sum in excess of \$75,000 00

19 The Plaintiff is informed and believes that Defendant, widely manufactured, created, designed, tested, labeled, sterilized, packaged, distributed, supplied, marketed, sold, advertised, and otherwise distributed through interstate commerce, the drug PPA in a variety of over-the-counter and prescription cold remedies and over-the-counter weight loss products

20. Upon information and belief Defendant's advertising and marketing schemes falsely, fraudulently and consciously misrepresented facts about products which contain PPA, including but not limited to the following. (a) that side effects were not serious, (b) that side effects were less severe and occurred less frequently than with other like drugs; (c) that sufficient testing had been conducted pursuant to federal regulations, and (d) that the results of this testing assured that these drugs were safe for human use.

21 Upon information and belief the Defendant, by failing to timely or adequately warn the public about the risk foreseeable injury from the use of their products, violated established federal regulations, including but not limited to 21 CFR §330.10 ("Procedures for classifying OTC drugs as generally recognized as safe and effective and not misbranded, and for establishing monographs"), which under subpart (a)(4)(v), states as follows

Labeling shall be clear and truthful in all respects and may not be false or misleading in any particular. It shall state the intended uses and results of the product, adequate directions for proper use, and warnings against unsafe use, side effects, and adverse reactions in such terms as to render them likely to be read and understood by the ordinary individual, including individuals of low comprehension, under customary conditions of purchase and use.

22. Indeed, no warning at all appeared on the labeling on Defendant's products about the risk of stroke associated with PPA. Upon information and belief, Defendant violated 21 CFR §369.10, which states

Necessary warning statements should appear in the labeling prominently and conspicuously as compared to other words, statements, designs, and devices, and in bold type on clearly contrasting background, in order to comply with the provisions of section 502 (c) and (f)(2) of the act. The warning statements should be placed in juxtaposition with the directions for use and, in any case, should appear on the label when there is sufficient label space in addition to mandatory label information.

FIRST CAUSE OF ACTION
NEGLIGENCE

23. Plaintiff incorporates by reference all preceding paragraphs and allegations of this Complaint as though fully set forth herein.

24. At all material times, the Defendant had a duty to exercise reasonable care in all aspects of the testing, labeling, marketing, sale and provision of adequate warnings regarding the use of those products containing PPA so as to ensure the safety of the products and to ensure that the consuming public, including Plaintiff, obtained accurate information and instructions for the safe use of these drugs.

25. Defendant failed to exercise ordinary care in the manufacture, sale, testing, quality assurance, quality control and distribution of the products into interstate commerce in that the Defendant knew or should have known that these products created a high risk of unreasonable, dangerous side effects which could be fatal.

26. Defendant was negligent in the design, manufacture, testing, advertising, warning, marketing and sale of products containing PPA in the following particulars, to wit:

- a Failing to use due care in the design and manufacture of products containing PPA so as to avoid risks to the Plaintiff when such products were being ingested for a common cold,
- b Failing to accompany their products with proper warnings regarding all possible adverse side effects associated with the use of their products, the comparative severity and duration of such adverse effects, and inaccurate reflection of the symptoms, scope and severity of the side effects,
- c Failing to provide adequate information to medical care providers as to the appropriate use of the products;
- d Failing to warn Plaintiff prior to actively encouraging the sale of their products orally or in writing about (1) the possibility of adverse events; (2) the possibility of becoming disabled as a result of the drug use, (3) that such side effects might result in permanent brain damage, and (4) that such side effects might result in debilitating, difficult and painful rehabilitation and a lifetime of visits to the doctor, clinic or hospital, or in even some situations, might be fatal,
- e Failing to adequately test or warn about the possible adverse side effects caused by the use of the products containing PPA, and
- f In such other and further particulars as will be proven at trial

27 Upon information and belief, Defendant continued to market products containing PPA, despite the fact that the Defendant knew or should have known that these products caused unreasonable, dangerous side effects, which many users would be unable to remedy by any means, and when there were other alternative methods to manufacture the products without PPA

28 Defendant knew or should have known that consumers such as the Plaintiff would suffer foreseeable injury as a result of Defendant's failure to exercise ordinary care as described herein

29 At all material times, the Defendant knew of the defective nature of their products as set forth herein, and continued to design, manufacture, market and sell their products so as to maximize sales and profits at the expense of public health and safety, and as such Defendant's conduct exhibits a wanton and reckless disregard for human life, and further, upon information

and belief, defendant exhibited such an entire want of care as to establish that their actions were a result of fraud, actual malice and a conscious and deliberate disregard of foreseeable harm to the Plaintiff herein, thereby entitling this Plaintiff to punitive damages.

SECOND CAUSE OF ACTION
STRICT PRODUCT LIABILITY (FAILURE TO WARN)

30 Plaintiff incorporates by reference all preceding paragraphs and allegations of this Complaint as though fully set forth herein

31 The product manufactured and/or supplied by Defendant was at all times unaccompanied by proper warnings concerning all possible adverse side effects including, but not limited to, the comparative severity, scope and duration of adverse effects.

32 After Defendant knew or should have known of the risk of injury from the use of products containing PPA, it failed to provide adequate warnings to users or consumers of the product, and continued to aggressively promote the products, and as a direct result thereof, the products manufactured and/or supplied by the Defendant were defective due to inadequate post-marketing warning and/or instructions.

33. Upon information and belief, as a producing cause and legal result of the defective condition of the products as manufactured and/or supplied by the Defendant, and as a direct and legal result of the negligence, carelessness, other wrongdoing and actions of the Defendant, Plaintiff sustained the damages and injuries as set forth herein

34 At all material times, the Defendant knew of the defective nature of their products and continued to design, manufacture, market and sell their products so as to maximize sales and profits at the expense of public health and safety, and as such, Defendant's conduct exhibits such an entire want of care as to establish their actions were willful, reckless, a result of fraud, actual

malice, and the conscious and deliberate disregard of foreseeable harm to Plaintiff, thereby entitling Plaintiff to punitive damages

**THIRD CAUSE OF ACTION
STRICT PRODUCT LIABILITY
(PURSUANT TO RESTATEMENT SECOND OF TORTS § 402 (1965))**

35 Plaintiff incorporates by reference all preceding paragraphs and allegations of this Complaint as fully set forth herein

36 At all material times, the products containing PPA manufactured and/or supplied by Defendant were placed into the stream of commerce by this Defendant in a defective and unreasonably dangerous condition in that the known and foreseeable risks associated with the use of these products exceeded the benefits associated with their design or formulation.

37 Alternatively, the products containing PPA manufactured and/or supplied by Defendant, were defective in design or formulation, such that when the products were placed in the stream of commerce, they were unreasonably dangerous in that they were more dangerous than an ordinary consumer would expect and more dangerous than other forms of cold products which were available to Plaintiff

38 The products ingested by Plaintiff, and manufactured and/or supplied by the Defendant were defective due to inadequate warnings or instructions since the manufacturers knew or should have known that the products created a risk of harm to consumers when used in the way they were intended to be used and in a manner which was reasonably foreseeable by the Defendant

39. Said products manufactured and/or supplied by Defendant, were defective due to inadequate warnings, inadequate testing, inadequate post-marketing warnings, and inadequate

post-marketing instructions, because after the Defendant knew or should have known of the risk of injury from the use of their products containing PPA, they failed to provide adequate warnings to users or consumers of the products and continued to promote the products

40 Upon information and belief, the ingested products were at the time they left Defendant's control, defective products unreasonably dangerous for use, and resulted in injury to the Plaintiff as alleged herein

41 The defective and unreasonably dangerous condition of the ingested products was the proximate cause of the injuries sustained by the Plaintiff, resulting in the damages and injuries as set forth herein.

42 At all material times, the Defendant actually knew of the defective nature of their products as set forth herein and blatantly continued to design, manufacture, market and sell their products so as to maximize sales and profits at the expense of public health and safety, and they exhibited such an entire want of care as to establish their actions were willful, wanton, reckless and a result of fraud, actual malice and the conscious and deliberate disregard of foreseeable harm to the Plaintiff, thereby entitling Plaintiff to punitive damages

FOURTH CAUSE OF ACTION
BREACH OF EXPRESS WARRANTY OF MERCHANTABILITY

43 Plaintiff incorporates by reference all preceding paragraphs and allegations of this Complaint as though fully set forth herein

44 Defendant expressly warranted that the ingested products were safe for use

45. These drugs do not conform to these express representations because the products containing PPA are not safe and have serious life threatening side effects As a direct and

proximate result of the breach of said express warranties, Plaintiff has suffered and will continue to suffer damages as set forth herein

FIFTH CAUSE OF ACTION
BREACH OF IMPLIED WARRANTIES

46 Plaintiff incorporates by reference all preceding paragraphs and allegations of this Complaint as though fully set forth herein

47 Defendant impliedly warranted to prospective purchasers and users, including Plaintiff, that the ingested products were safe, merchantable, and fit for the ordinary purposes for which such goods are used

48. Plaintiff reasonably relied upon the skill and judgment of the Defendant, as to whether the products were of merchantable quality and safe and fit for their intended use

49 Upon information and belief, and contrary to such implied warranties, said products containing PPA were not of merchantable quality or safe or fit for their intended uses because the products were and are unreasonably dangerous and unfit for the ordinary purpose for which they were used as previously described herein

50 As a direct and proximate result of the breach of implied warranties by the Defendant, Plaintiff suffered and will continue to suffer injury, harm and economic loss as alleged herein

SIXTH CAUSE OF ACTION
NEGLIGENT MISREPRESENTATION

51. Plaintiff incorporates by reference all preceding paragraphs and allegations of this Complaint as though fully set forth herein

52. Defendant falsely represented to Plaintiff that the ingested products were safe when used as instructed. These representations, that the ingested products were safe for their intended use when used as instructed and labeled were false as the products were, in fact, dangerous to the health of the Plaintiff when used as intended.

53. Defendant failed to exercise reasonable care in ascertaining the accuracy of the information regarding the safe use of the ingested products, and otherwise failed to exercise reasonable care in communicating the information to the Plaintiff.

54. In reasonable reliance upon Defendant's misrepresentations, Plaintiff was induced to, and did, use the ingested products.

55. As a direct and proximate result of Defendant's misrepresentations, Plaintiff sustained the damages and injuries set forth herein.

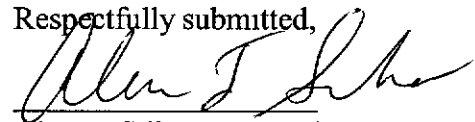
WHEREFORE, Plaintiff prays for relief as follows:

- 1 Full refund of all costs for Plaintiff's use of the ingested products,
- 2 Compensatory, consequential damages and punitive damages individually in excess of the jurisdictional amount,
- 3 For any and all medical management and future medical expenses;
- 4 For all attorneys' fees, expenses, interest and costs of this action,

5 For such other extraordinary, declaratory or injunctive relief as permitted by law
as necessary to assure that Plaintiff has an effective remedy, and

6 For such other and further relief as this Court deems just and proper

Respectfully submitted,



Alan T. Silko, Esquire (PA ID # 46837)
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Suite 600, Gulf Tower
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ATTORNEYS FOR THE PLAINTIFF

October 28, 2002

JS 44 (Rev 3/99)

CIVIL COVER SHEET

02 1840

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Timothy Wright

DEFENDANTS

Bayer Corp

(b) County of Residence of First Listed Plaintiff Gaston Co, NC
(EXCEPT IN U S PLAINTIFF CASES)

County of Residence of First Listed Allegheny
(IN U S PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

(c) Attorney's (Firm Name, Address, and Telephone Number)

Alan T. Silko, Esq. Thomas P. Gressette, Jr., Esq.
BROWN & LEVICOFF H. Blair Hahn, Esq.
707 Grant St., Ste 600 RICHARDSON, PATRICK, et al
Pittsburgh, PA 15219 174 East Bay St
(412) 434-5200 Charleston, SC 29401 (843) 727-6500

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U S Government Plaintiff
☐ 2 U S Government Defendant
☐ 3 Federal Question (U S Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 DEF
Incorporated or Principal Place of Business In This State ☐ 4 ☒ 4 DEF
Citizen of Another State ☒ 2 ☐ 2 DEF
Incorporated and Principal of Business In Another State ☐ 5 ☐ 5 DEF
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 DEF
Foreign Nation ☐ 6 ☐ 6 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input checked="" type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U S Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination <input type="checkbox"/> Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISON PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U S Civil Statute under which you are filing and write brief statement of cause.)

28 USC § 1332 Products liability, failing to warn, breach of warranties, and negligent misrepresentation associated with defendants' manufacturing, marketing and distributing phenylpropanolamine. Plaintiff files this Complaint against defendants including claims for negligence, strict

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION DEMAND UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint

JURY DEMAND ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

NONE

JUDGE Barbara Jacobs Rothstein DOCKET NUMBER

MDL 1407

DATE Oct 28, 2002

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE

JS 44A

REVISED OCTOBER, 1993

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (Erie Johnstown X Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venango or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset, OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. ☒ This case is related to Number MDL 1407, Judge ROTHSTEIN.
2. ☒ This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit, or involves the same issues of fact or it grows out of the same transactions as another suit, or involves the validity or infringement of a patent involved in another suit.

EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

1. **CIVIL CATEGORY** (Place x in only applicable category).

1. () Antitrust and Securities Act Cases
2. () Labor-Management Relations
3. () Habeas Corpus
4. () Civil Rights
5. () Patent, Copyright, and Trademark
6. () Eminent Domain
7. () All other federal question cases
8. (X) All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest.
9. () Insurance indemnity, contract, and other diversity cases.
10. () Government Collection Cases (shall include HEW Student Loans (Education), VA Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, S.B.A. Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct.

Date: Oct 28, 2002

 ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH SIDES MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.